

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D32323  
G/kmb

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Argued - September 6, 2011

MARK C. DILLON, J.P.  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
JEFFREY A. COHEN, JJ.

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2010-03522  
2011-02387

DECISION & ORDER

Marielle Mendez, etc., respondent, v New York  
Methodist Hospital, et al., appellants, et al.,  
defendants.

(Index No. 45716/07)

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Bartlett, McDonough & Monaghan, LLP, White Plains, N.Y. (Edward J. Guardaro,  
Jr., and Megan C. Wagner of counsel), for appellants.

Fitzgerald & Fitzgerald, P.C., Yonkers, N.Y. (John E. Fitzgerald, John M. Daly,  
Eugene S. R. Pagano, and Ann B. Chase of counsel), for respondent.

In an action to recover damages for medical malpractice, etc., the defendants New York Methodist Hospital and Madhu B. Gudavalli appeal, as limited by their brief, from (1) so much of an order of the Supreme Court, Kings County (Jackson, J.), dated February 2, 2010, as, after a hearing to determine the validity of service of process, denied that branch of their cross motion which was pursuant to CPLR 3211(a)(8) to dismiss the complaint insofar as asserted against them for lack of personal jurisdiction, and (2) so much of an order of the same court dated November 9, 2010, as, upon reargument, adhered to the original determination in the order dated February 2, 2010, and, in effect, granted that branch of the plaintiff's prior motion which was to extend the time to serve the summons and complaint pursuant to CPLR 306-b and to deem the plaintiff's service of an order to show cause signed on July 23, 2008, as good and proper service of the summons and complaint.

ORDERED that the appeal from the order dated February 2, 2010, is dismissed, as the portion of that order appealed from was superseded by the order dated November 9, 2010, made upon reargument; and it is further,

September 27, 2011

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ORDERED that the order dated November 9, 2010, is affirmed insofar as appealed from; and it is further,

ORDERED that one bill of costs is awarded to the plaintiff.

Upon reargument, the Supreme Court properly adhered to its original determination denying that branch of the appellants' cross motion which was pursuant to CPLR 3211(a)(8) to dismiss the complaint insofar as asserted against them for lack of personal jurisdiction. The court also properly, in effect, granted that branch of the plaintiff's prior motion which was to extend her time to serve the appellants pursuant to CPLR 306-b. A consideration of the relevant factors, as revealed in the record, supported the extension (*see Leader v Maroney, Ponzini & Spencer*, 97 NY2d 95, 105-106; *Bumpus v New York City Tr. Auth.*, 66 AD3d 26, 31-32; *see also Earle v Valente*, 302 AD2d 353, 354; *Seon Uk Lee v Corso*, 300 AD2d 385, 386; *Citron v Schlossberg*, 282 AD2d 642).

DILLON, J.P., ANGIOLILLO, DICKERSON and COHEN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court